

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY**

ADAM X., BRIAN Y., CASEY Z., on behalf
of themselves and all others situated, and the
AMERICAN CIVIL LIBERTIES UNION OF
NEW JERSEY, and the ARC OF NEW
JERSEY,

Plaintiffs,

v.

NEW JERSEY DEPARTMENT OF
CORRECTIONS, VICTORIA KUHN, in her
official capacity as Acting Commissioner of
the New Jersey Department of Corrections,
NEW JERSEY DEPARTMENT OF
EDUCATION, and ANGELICA ALLEN-
McMILLAN, in her official capacity as
Commissioner of the New Jersey Department
of Education,

Defendants.

Civil Action No.: 3:17-cv-00188-FLW-LHG

**DECLARATION OF CASEY Z. IN SUPPORT OF MOTION FOR PRELIMINARY
APPROVAL OF SETTLEMENT AGREEMENT**

I, Casey Z., declare:

1. I have personal knowledge of the facts contained in this declaration and, if called
as a witness, I am competent to testify as to those facts.

2. I am a Named Plaintiff and class representative in this action. I am a person with a
disability that substantially limits a major life activity, and I have been eligible for special
education and related services.

3. I am 25 years old, and I have been incarcerated in NJDOC since July 2, 2015.
While incarcerated, I was eligible for special education services, and I received my diploma.

4. I support preliminary approval of the proposed class action settlement agreement (the “Agreement”), which will make sure that students with disabilities in New Jersey prisons receive appropriate education and transition services and are not unfairly punished for behavior that results from their disabilities.

5. I believe the Agreement should be preliminarily approved by the Court because it is detailed and complete. It incorporates a new set of policies that will make sure that all eligible students receive special education services as well as non-discriminatory disciplinary procedures. It was drafted based on input from myself, the other Named Plaintiffs, and other students in prison. Also, the Agreement will avoid ongoing litigation, which could otherwise continue for years and delay relief for the plaintiff class.

6. For these reasons, described in detail below, I believe that the proposed Agreement will greatly benefit both me and all people with disabilities affecting their education who have been or are currently incarcerated in New Jersey state prisons.

**THE PROPOSED SETTLEMENT AGREEMENT WILL BENEFIT ALL STUDENTS
WHO ARE ELIGIBLE FOR SPECIAL EDUCATION SERVICES IN NEW JERSEY
STATE PRISONS**

7. I have gotten updates from my attorneys throughout the settlement negotiation process and have had a chance to weigh in on all the major points in settlement discussions. I have also reviewed the final version of the proposed Agreement.

8. I understand that as part of the Settlement Agreement, NJDOC has agreed to do the following:

- A. Place students with disabilities in the right class year and special education setting when they enter NJDOC custody, including requesting records from students’ last school districts;
- B. Make sure every student has and receives the services in an Individualized Education Plan (“IEP”) and/or Section 504 Plan that meets their needs, including transition services;

- C. Provide students with disabilities at least four hours of instruction per day in a regular classroom, except when the student refuses or cannot attend for medical reasons, or when a security interest prevents classroom instruction;
- D. Use cell study only when students refuse to attend class, can't attend for medical reasons, or are prevented from attending because of security interests, and give students opportunities for face-to-face instruction with a certified teacher;
- E. Use worksheets only as an instructional aide, not as the main source of learning;
- F. Use certified special education teachers;
- G. Give make-up instruction to students with disabilities when class is cancelled;
- H. Develop and implement behavioral assessments and plans for students with disabilities and conduct manifestation determinations for disciplinary events that happen during the school day;
- I. Install blankets or other noise-reducing fabric in the Restorative Housing Unit classroom modules to reflect classrooms in the general population;
- J. Provide interpretation and translation services to students with disabilities who are learning English; and
- K. Establish a process for class members to apply for and receive compensatory education.

9. I believe that the Agreement will benefit me and other students with disabilities in New Jersey prisons because it is important that all students have an equal education. My input, as well as the input of other students with disabilities who have been or are currently incarcerated in New Jersey prisons, influenced the terms of the Agreement. By sharing the stories of those

who have been or are currently incarcerated in New Jersey prisons, we made this Agreement possible and now all Class Members will get the help that they deserve.

10. As a Named Plaintiff, I helped my attorneys by sharing my story with them and with the Court-appointed expert, Dr. Gagnon. I frequently answered my attorneys' questions and gave them feedback on proposed settlement terms.

11. Before this litigation, I was not getting a proper education, materials, or assistance from real teachers or tutors when I was supposed to be receiving special education services. These experiences made me feel like I was ready to quit and give up. But by being a Named Plaintiff I felt like I owed it to myself and to the rest of the Class to be a voice for others in my same situation. Being a Named Plaintiff was a lot of responsibility and took an emotional toll, but I believed that the education in NJDOC prisons could only get better—not worse—so I stayed patient throughout this process. As a result of these efforts, I believe that this Agreement will help others in the same situation to receive the right education and reach their future goals, like getting a job.

12. In addition to fixing the education system within NJDOC prisons, I also understand that under the Agreement, I will receive both compensatory education funds in the amount of \$16,000 and an incentive award in the amount of \$5,000 for my participation in this lawsuit. As of right now, the first thing I want to use the incentive award for is to buy my 10-year-old daughter books. With the compensatory education funds, I am interested in furthering my education by buying books for myself and hopefully taking correspondence courses and receiving training in the areas of business, construction, and history.

13. I understand that both the New Jersey Department of Education (“NJDOE”) and a Court-appointed external monitor, Dr. Susan Roberts, will monitor NJDOC’s implementation of this Agreement.

14. I understand that the Court will have jurisdiction to enforce Agreement for five years from the Effective Date, and that Dr. Roberts will have to provide reports to my lawyers and the Court. The parties have also set up a step-by-step process for addressing any disputes

that may happen among them as the Agreement is implemented. I believe this will benefit me and my fellow class members because it provides a way for Plaintiffs to voice our concerns through our lawyers if we believe that the Defendants are not complying with the Agreement.

15. I also understand that under the proposed Agreement, I am giving up and releasing all claims for systemic injunctive relief against NJDOC and NJDOE under the IDEA or Section 504 of the Rehabilitation Act regarding the special education system in NJDOC prisons at issue in this lawsuit that arose on or before the effective date of the Agreement. I also understand that I am releasing any claims for compensatory education in NJDOC prisons under the IDEA or Section 504 that arose on or before the effective date of the Agreement.

16. I believe that the plan for relief set forth in the proposed Agreement provides for far greater benefits for the plaintiff class than we would get by going forward with litigation, particularly because of the urgency of the issue addressed—education and transition services for students who are in their final years of being eligible for such services—and the additional risks and delay involved with litigation.

[THIS SPACE INTENTIONALLY LEFT BLANK]

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct, and that this declaration was executed on July 13, 2021, in [REDACTED], New Jersey.

s/ Casey Z.
Casey Z.¹

¹ A version of this declaration signed with the Named Plaintiff's legal name will be maintained in the files of counsel for the parties, subject to the Confidentiality Order entered in this case.